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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

| | | |
|---------------------------|---|---------------------------|
| UNITED STATES OF AMERICA, |) | NO. CR 17-00066 JST |
| |) | |
| Plaintiff, |) | UNITED STATES' SENTENCING |
| |) | MEMORANDUM |
| v. |) | |
| |) | |
| LISA ROSSI, |) | |
| |) | |
| Defendant. |) | |
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I. INTRODUCTION

The government recommends and respectfully requests that this Court sentence defendant to a one-year term of probation, including a condition of ten months home confinement; restitution of \$234,270.59 to be paid on the date of sentencing as set forth in Attachment A to defendant's plea agreement; and a mandatory special assessment of \$100.

II. FACTUAL AND PROCEDURAL BACKGROUND

E-D Coat, Inc. ("E-D Coat") was a metal refinishing facility located at 715 4th Street, Oakland, California. In 1976, E-D Coat established an employee pension benefit plan called "The E-D Coat, Inc. Profit Sharing Plan" ("the Plan"), to provide retirement benefits to certain eligible employees. From at least 2008, defendant was a fiduciary of the Plan, had access to the Plan's bank accounts, and communicated with and paid out the Plan's participants. Defendant knew that the Plan was subject to Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"). The Plan had bank accounts at Bank of America, account ending 1729 and account ending 7862. Defendant was a signatory on both of these Plan bank accounts. From May 2011 through February 7, 2014, defendant embezzled \$66,049.00 from the Plan's Bank of America account ending 7862 for the benefit of others knowing that these funds were owed to specific Plan participants. (PSR ¶¶ 6-7).

On July 21, 2017, defendant pleaded guilty pursuant to a plea agreement to a one-count felony information charging her with Theft From an Employee Benefit Plan in violation of 18 U.S.C. § 664. (PSR ¶¶ 1-2).

III. SENTENCING GUIDELINES CALCULATIONS

The parties agreed to the following guidelines calculations in the plea agreement:

| | | |
|----|--|----|
| a. | Base Offense Level, U.S.S.G. § 2B1.1(a): | 6 |
| b. | Specific offense characteristics under U.S.S.G. Ch. 2: | |
| | U.S.S.G. § 2B1.1(b)(1)(D) (Loss greater than \$40,000) | +6 |
| | U.S.S.G. § 3B1.3, Abuse of Position of Trust | +2 |
| c. | Acceptance of Responsibility: | -2 |
| d. | Adjusted Offense Level: | 12 |

1 The United States Probation Office (USPO) agrees with the calculations in the plea agreement. (PSR ¶¶
2 3, 13-21). Defendant falls within criminal history category I. (PSR ¶ 26). Thus, the defendant's
3 guidelines range is 10-16 months. (PSR ¶ 59).

4 The government, along with the USPO, recommends a below-guidelines sentence of a one-year
5 term of probation, including a condition of ten months home confinement; restitution of \$234,270.59 to
6 be paid on the date of sentencing as set forth in Attachment A to defendant's plea agreement; and a
7 mandatory special assessment of \$100.

8 **IV. CONCLUSION**

9 For the foregoing reasons, the government respectfully requests that the Court impose sentence
10 as set forth above.

11 DATED: February 16, 2018

Respectfully Submitted,

12 ALEX G. TSE
13 Acting United States Attorney

14 _____/S/
15 GARTH HIRE
16 Assistant United States Attorney
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